

UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division

IN RE:

DAWN ALISA DODGE

Debtor

Chapter 13

Case No. 20-34797-KRH

PNC BANK, NATIONAL ASSOCIATION

Movant

v.

DAWN ALISA DODGE
2323 SHEPPARD TOWN ROAD
MAIDENS, VA 23102
(Debtor)

BRANDEN JOSEPH DODGE
2323 SHEPPARD TOWN ROAD
MAIDENS, VA 23102
(Co-Debtor)

SUZANNE E. WADE
341 DIAL 877-996-8484 CODE 2385911
7202 GLEN FOREST DRIVE, STE. 202
RICHMOND, VA 23226
(Trustee)

Respondents

**MOTION FOR RELIEF FROM AUTOMATIC STAY AND FOR IN REM RELIEF
FROM THE AUTOMATIC STAY AND THE CO-DEBTOR AUTOMATIC STAY
PURSANT TO 11 U.S.C. § 1301(c)(3)**

PNC Bank, National Association (“Movant”) by undersigned counsel, respectfully moves this Honorable Court to terminate the Automatic Stay and Co-Debtor Automatic Stay as to the real property located at 2323 Sheppard Town Road, Maidens, VA 23102 (“Property”), and, as grounds therefore, states as follows:

Daniel K. Eisenhauer, Esq., Bar # 85242
PO Box 2548
Leesburg, VA 20177
(703) 777-7101

1. This proceeding seeking relief under 11 U.S.C. § 362(d) and 11 U.S.C. § 1301(c)(3) is a contested matter within the meaning of Fed. R. Bankr. P. 4001 and 9014, and this court has jurisdiction over this matter pursuant to 28 U.S.C. § 157. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(G) and (b)(2)(O). Venue is proper pursuant to 28 U.S.C. § 1409(a).

2. On December 7, 2020, the above named Debtor, Dawn Alisa Dodge (“Debtor”), filed in this court a Petition under Chapter 13 of the United States Bankruptcy Code. Suzanne E. Wade was appointed Chapter 13 Trustee.

COUNT 1
RELIEF FROM AUTOMATIC STAY

3. On or about July 27, 2009, Dawn Alisa Dodge and Branden Joseph Dodge (collectively the “Obligors”) executed and delivered to Market Mortgage Services, LLC DBA First Market Mortgage, LLC a Note in the amount of TWO HUNDRED SEVENTY-THREE THOUSAND DOLLARS AND NO CENTS (\$273,000.00), plus interest at the fixed rate of 5.000% per annum to be paid over thirty (30) years. A copy of the Note is attached as **Exhibit A** and incorporated herein.

4. To secure the repayment of the sums due under the Note, Dawn Alisa Dodge and Branden Joseph Dodge executed and delivered to Market Mortgage Services, LLC DBA First Market Mortgage, LLC a Deed of Trust dated July 27, 2009, encumbering the real property (“Property”) described as:

ALL that certain lot, piece or parcel of land with improvements thereon, if any, and appurtenances thereunto belonging, lying and being on the west side of State Route 639, also known as Sheppard Town Road, Lot 1, 4.00 acres as shown on plat of survey by Michael L. Parrish & Associates, Inc., dated April 26, 2006, a copy of which is recorded in the Clerk's Office, Circuit Court, Goochland County, Virginia in Plat Cabinet E-29, reference to which is hereby made for a more particular description.

BEING the same real estate conveyed to Branden Joseph Dodge and Dawn Alisa Dodge by deed dated July 24, 2006 from Earl Carter Duke, Jr. and Virginia Hammons Duke, recorded Feb. 20, 2007 in the aforementioned Clerk's Office as Instrument No. 070000825.

which has the address of 2323 Sheppard Town Road, Maidens, Virginia 23102. The Deed of Trust was recorded in the Clerk's Office of Goochland on July 27, 2009. A copy of the Deed of Trust is attached as **Exhibit B** and incorporated herein.

5. The Note and Deed of Trust were later transferred to Movant and Movant is the current holder of the Note and Deed of Trust. A copy of the Assignment is attached as **Exhibit C** and incorporated herein.

6. The Debtor agreed to a permanent modification of the loan described above. The loan modification is attached as **Exhibit D** and incorporated herein.

7. As of September 13, 2021, the Debtor owes an unpaid principal balance of \$297,193.06 under the Note, plus additional accruing interest, late charges, attorneys' fees and costs.

8. As of September 13, 2021, the Debtor is due for July 1, 2021, which includes the following missed payments:

Number of Missed Payments	From	To	Payment Amount	Total Due
3	July 1, 2021	September 1, 2021	\$1,943.17	\$5,829.51
Suspense:				(\$2.00)
Total Payments Past Due:				\$5,827.51

9. A Copy of the post-petition payment history is attached as **Exhibit E** and incorporated herein.

10. The value of the property is \$458,900.00, according to the Debtor's Schedule "A".

11. The Debtor is in default under the Note.

12. The Debtor has not and cannot offer PNC Bank, National Association adequate protection of its interest in the Property, and PNC Bank, National Association avers it is not adequately protected.

13. That the Debtor's account delinquency constitute cause for relief from the automatic stay.

COUNT II
IN REM RELIEF FROM THE STAY

14. That, under 11 U.S.C. § 362(d)(4), upon a finding of a scheme to delay, hinder, or defraud Movant, the Bankruptcy Court may enter an order that prevents any future bankruptcy case from affecting the property for a period of two years once that order is recorded with the appropriate Register of Deeds.

15. That the Debtor, has filed a series of bankruptcy cases in a deliberate attempt to delay, hinder, and defraud the Movant in an attempt to avoid foreclosure action.

16. The first case was a Chapter 13 case filed by Dawn Alisa Dodge on September 25, 2013 and assigned case number 13-35147 (“First Case”). The First Case was dismissed on November 5, 2014 for failure to make plan payments. A copy of the Docket Report for this case is attached as **Exhibit F** and incorporated herein.

17. The second case was a Chapter 13 case filed by Dawn Alisa Dodge on January 10, 2015 and assigned case number 15-30130 (“Second Case”). The Second Case was dismissed on April 16, 2015 for other reason. A copy of the Docket Report for this case is attached as **Exhibit G** and incorporated herein.

18. The third case was a Chapter 13 case filed by Dawn Alisa Dodge on February 7, 2017 and assigned case number 17-30595 (“Third Case”). The Third Case was dismissed on April 12, 2018 for other reason. A copy of the Docket Report for this case is attached as **Exhibit H** and incorporated herein.

19. The fourth case was a Chapter 13 case filed by Dawn Alisa Dodge on June 4, 2018 and assigned case number 18-32919 (“Fourth Case”). The Fourth Case was dismissed on May 9, 2019 for failure to make plan payments. A copy of the Docket Report for this case is attached as **Exhibit I** and incorporated herein.

20. The fifth case was a Chapter 13 case filed by Dawn Alisa Dodge on July 19, 2019 and assigned case number 19-33760 (“Fifth Case”). The Fifth Case was dismissed on December 4, 2020 failure to make plan payments. A copy of the Docket Report for this case is attached as **Exhibit J** and incorporated herein.

21. The Obligors are currently behind on their payments to PNC Bank, National Association and are due for the July 1, 2021, post petition payment.

22. The Debtor has filed this sixth case for the purpose of delaying PNC Bank, National Association from exercising its rights under the Deed of Trust.

23. To protect against a possible seventh filing, PNC Bank, National Association requests that this Court grant an Order providing prospective relief from the automatic stay as to this Property from any future Bankruptcy filing for a period of two (2) years.

COUNT III
RELIEF FROM CO-DEBTOR AUTOMATIC STAY UNDER 1301(C)(3)

24. The allegations of paragraphs 1 through 23 are incorporated by reference herein.

25. PNC Bank, National Association Movant will be irreparably harmed by the continuation of the Co-Debtor Automatic Stay.

26. Cause exists to terminate the Co-Debtor Automatic Stay.

WHEREFORE, PNC Bank, National Association prays that this Court issue an order terminating or modifying the Automatic Stay under 11 U.S.C. § 362 and Co-Debtor Automatic Stay under 11 U.S.C. § 1301, as to the property located at 2323 Sheppard Town Road, Maidens, VA 23102, and granting the following:

a. Relief from the Stay and Co-Debtor Stay allowing PNC Bank, National Association to exercise its legal rights under applicable law as to the Property, including but not limited to foreclosure against the Property under the Deed of Trust, and grant in rem relief from the automatic stay such that any future bankruptcy filings within two (2) years by either the Debtor or the Co-Debtor or any party to whom they may transfer the Property will not hinder PNC Bank, National Association's ability to exercise its rights under the Deed of Trust and will

not require relief from the automatic stay in that case, and for such other and further relief as this Court deems just and proper.

b. Relief from the Stay and Co-Debtor Stay allowing PNC Bank, National Association to proceed under applicable non-bankruptcy law to enforce its remedies to foreclose upon and obtain possession of the Property and/or allowing Movant, through its agents, servicers and representatives to contact Debtor and/or Debtor's counsel for the purpose of engaging in discussions and consideration for possible loss mitigation options, solutions and/or resolutions with regard to the underlying mortgage and note, including, but not limited to loan modification, deed in lieu or other loss mitigation alternatives.

c. That the Order be binding and effective despite any conversion of this bankruptcy case to a case under any other chapter of Title 11 of the United States Code.

d. That the 14-day stay described by Bankruptcy Rule 4001(a)(3) be waived.

e. That it be exempted from further compliance with Fed. R. Bankr. P. 3002.1 in the instant bankruptcy case.

f. For such other relief as the Court deems proper.

Date: September 27, 2021

Respectfully submitted,

/s/Daniel K. Eisenhauer

Daniel K. Eisenhauer, Bar #85242

Orlans PC

PO Box 2548

Leesburg, VA 20177

(703) 777-7101

Attorneys for PNC Bank, National Association

deisenhauer@orlans.com

CERTIFICATE OF SERVICE

The undersigned states that on September 27, 2021, copies of the foregoing Motion for Relief from Automatic Stay and for In Rem Relief from the Automatic Stay and Co-Debtor Automatic Stay were filed with the Clerk of the Court using the ECF system, which will send notification of such filing to the following:

Suzanne E. Wade
341 Dial 877-996-8484 Code 2385911
7202 Glen Forest Drive, Ste. 202
Richmond, VA 23226
ecfsummary@ch13ricva.com
Bankruptcy Trustee

James E. Kane
Kane & Papa, PC
1313 East Cary Street
P.O. Box 508
Richmond, VA 23218-0508
jkane@kaneandpapa.com
Debtor's Attorney

and I hereby certify that I have caused to be mailed by first class mail, postage prepaid, copies of the foregoing Motion for Relief from Automatic Stay and for In Rem Relief from the Automatic Stay and Co-Debtor Automatic Stay to the following non-ECF participants:

Dawn Alisa Dodge
2323 Sheppard Town Road
Maidens, VA 23102
Debtor

Branden Joseph Dodge
2323 Sheppard Town Road
Maidens, VA 23102
Co-Debtor

/s/Daniel K. Eisenhauer
Daniel K. Eisenhauer, Esquire